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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT**

**NORTHERN DISTRICT OF CALIFORNIA**

**KLAMATH RIVERKEEPER**, a nonprofit  
public benefit corporation;  
**HOWARD McCONNELL**;  
**LEAF G. HILLMAN**;  
**ROBERT ATTEBERY**; and  
**BLYTHE REIS**;

Plaintiffs,

vs.

**PACIFICORP, INC.**, an Oregon  
Corporation;

Defendant.

Case No. CV 07-06199 WHA

DECLARATION OF DANIEL COPPER IN  
SUPPORT OF ADMINISTRATIVE MOTION  
FOR CLARIFICATION OF ORDER

Civil L.R. 7-11

Judge: Honorable William H. Alsup  
Department: Courtroom 9, 19th Floor

1 I, Daniel Cooper, declare as follows:

2 I am an attorney at law, admitted to practice before the Northern District of California and a  
3 partner in the law firm Lawyers for Clean Water, Inc. attorneys for Plaintiffs Klamath Riverkeeper,  
4 Howard McConnell, Leaf G. Hillman, Robert Attebery, and Blythe Reis (collectively referred to as  
5 "Plaintiffs"). I am a counsel of record in this action. I have personal knowledge of the matters stated  
6 herein. If required, I could and would testify thereto.

7 1. On 22 February 2008, I received the Court's order provisionally consolidated the two  
8 related actions, C 07-02382 WHA and C 07-06199 WHA, and denying Defendant PacifiCorp, Inc.'s  
9 motion to dismiss ("Order").

10 2. The Court conditioned the consolidation and denial of Defendant's motion on a  
11 requirement that "all plaintiffs' counsel sign and file a written undertaking to be jointly and severally  
12 responsible for all such incremental costs and fees attributable to the delay" of two and one half months  
13 between the date set in the case management order for amending the complaint, and the date the second  
14 action was filed. Order, p. 8.

15 3. Immediately after receiving the Order, I discussed it with my co-counsel and colleagues.  
16 We could not come to agreement as to the undertaking contemplated by the Order.

17 4. On 25 February 2008, I contacted Richard Raushenbush, attorney for Defendant, to  
18 discuss Defendant's understanding of the Order.

19 5. Mr. Raushenbush explained that in Defendant's view, the incremental increase of  
20 includes all fees and costs in bringing the Motion to Dismiss and all incremental increases of discovery  
21 costs.

22 6. I explained that Plaintiffs have a different understanding of what the incremental increase  
23 in costs and fees might include. For example, Plaintiffs' understanding is that Defendant's Motion to  
24 Dismiss would not be considered part of the increase because it was filed in defense of the new claim.  
25 Further, given that discovery is in its early stages, Plaintiffs contemplate very limited incremental cost  
26 increases relating to discovery.

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7. Once it became clear that the parties do not agree as to what the incremental increase in costs and fees might include, I asked Mr. Raushenbush if he would join in a request for clarification. Mr. Raushenbush refused to do so.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration is being executed on 27 February 2008, in San Francisco, California.

Respectfully submitted,

/s/  
Daniel Cooper  
Attorney for Plaintiffs